

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOSEPH CHARLES BUCKLEY,

Plaintiff,

Case No. 25-cv-47-pp

v.

CAROLYN W. COLVIN,

Defendant.

**ORDER GRANTING PLAINTIFF'S AMENDED MOTION FOR LEAVE TO
PROCEED WITHOUT PREPAYING FILING FEE (DKT. NO. 6)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. He also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2. The court issued an order telling the plaintiff that his original request did not give the court enough information to determine whether he could proceed without prepaying the initial partial filing fee; the court ordered the plaintiff to file an amended request. Dkt. No. 4. The plaintiff has filed that amended request. Dkt. No. 6.

Federal law requires a person who files a complaint in federal court to pay \$405—a filing fee of \$350 (28 U.S.C. §1914(a)) and a \$55 administrative fee (Judicial Conference of the United States District Court Miscellaneous Fee Schedule Effective the December 1, 2023, #14). To allow the plaintiff to proceed without prepaying the filing fee, the court first must decide whether the

plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that he does not have the ability to pay the filing fee. The plaintiff's amended request indicates that he is not employed, he is not married and he has no dependents he is responsible for supporting. Dkt. No. 6 at 1. The plaintiff has no monthly wages or salary, but he says he receives \$1,580 per month from "social services," \$1,050 per month from "Wiscon Employees Trust," and \$140 per month "Disable From Military," for a total of \$2,770 per month. Id. at 2. Against this income, the plaintiff lists expenses of \$1,915 per month (\$840 mortgage, \$275 credit card payments, \$800 other household expenses). Id. at 2-3. The plaintiff does not state whether he owns a car; he indicates that he owns his home (worth approximately \$130,000 with equity of about \$10,000) and that he owns no other property of value. Id. at 3-4. While the plaintiff's stated income less his stated expenses results in a surplus of \$855 per month, the plaintiff says that he has only \$100 cash on hand or in a checking or savings account. Id. at 3. The plaintiff has demonstrated that he cannot pay the \$405 fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of

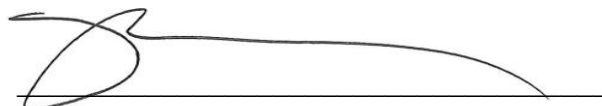
Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff has used this district's standard form for a complaint requesting review of an adverse decision by the Commissioner. Dkt. No. 1. According to the complaint, "[the plaintiff] . . . was disabled during the time period included in this case [and believes] the commissioner's unfavorable conclusions and findings of fact are not supported by substantial evidence; and/or are contrary to law and regulation." Id. at 3. The plaintiff also states, "I am still disable. [sic] See Doctors Report." Id. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 6.

Dated in Milwaukee, Wisconsin this 22nd day of January, 2025.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge